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| 09/982,988      | 10/22/2001  | Yoshiyuki Maki       | 2018-460            | 7816             |

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/982,988

Applicant(s)

MAKI ET AL.

Examiner

Brian J. Broadhead

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 11-10-03 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it is a copy of the disclosure filed 10-22-01. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1). The originally filed disclosure has been corrected to reflect the proper document numbers, making the current disclosure unnecessary.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 27-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 27-34 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: how can the output of the malfunction detection operation of each one of said at least one diagnosis target be

categorized into at least three levels, which include normal, temporarily abnormal, and abnormal? How is one MIL normal, temporarily abnormal, and abnormal all at the same time?

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1 through 26 are rejected under 35 U.S.C. 102(a) as being anticipated by Shimizu et al., EP0987423 A2.

3. As per claims 1, 7, 8, 9, 10, 11, 14, 20, 21, 22, 23, and 24, Shimizu et al. disclose at least one malfunction-information storage object(100) that specifies a control instruction for instructing control operation of the at least one MIL with respect to malfunction information of said each at least one diagnosis target based on said malfunction information of said each one of said at least one diagnosis target, said selected condition being one of the following possible conditions: lighting-on, flashing, and lighting-off, and said malfunction information of said each one of said at least one diagnosis target being determined based on the result of the malfunction detection operation(200) of said each one of said at least one diagnosis target in view of a level of malfunction of said each one of said at least one diagnosis target; a malfunction-information managing object(300) that carries out adjustment of the control instruction of said at least one MIL specified by said at least one malfunction- information storing

object based on the malfunction information of said each one of said at least one diagnosis target and outputs MIL information specifies said control instruction of said at least one MIL based on said relationship information.

4. As per claims 2 and 15, Shimizu et al. disclose said at least one malfunction-information storing object stores said malfunction information of said each one of said at least one diagnosis target(110); and said malfunction-information managing object commands said at least one malfunction-information storing object to store said malfunction information of said each one of said at least one diagnosis target based on the result of said malfunction detection operation of said each one of said at least one diagnosis target(S905).

5. As per claims 3 and 16, Shimizu et al. disclose each one of said at least one malfunction-information storing object is prepared for each corresponding one of said at least one diagnosis target or is prepared for each corresponding one of at least one malfunction check item that corresponds to said at least one diagnosis target, respectively, on lines 45-47, on column 11.

6. As per claims 4 and 17, Shimizu et al. disclose said at least one malfunction-information storage object stores relationship information indicative of relationship between said malfunction information and said control instruction on lines 20-42, on column 9; and said at least one malfunction-information storing object specifies said control instruction of said at least one MIL based on said relationship information on lines 20-42, on column 9.

7. As per claims 5 and 18, Shimizu et al. disclose wherein said at least one malfunction-information storing object specifies said control instruction based on said malfunction information of said each one of said at least one diagnosis target when a request for retrieving said control instruction is received from said malfunction-information managing object on lines 5-30, on column 10.

8. As per claims 6 and 19, Shimizu et al. disclose said control instruction is selected from a plurality of control instructions having different predetermined priority levels in figure 16; and said malfunction-information managing object outputs one of said control instructions having a highest priority level as MIL information in figure 16.

9. As per claims 12, 13, 25, and 26, Shimizu et al. disclose a MIL controlling object for controlling said at least one MIL based on said MIL information outputted from said malfunction-information managing object in figure 3.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al., EP0987423 A2, in view of Kubo et al., 6442458.

12. Shimizu et al. disclose the limitations as set forth above. Shimizu et al. do not disclose the malfunction detection operation of each one of said at least one diagnosis target is categorized into at least three levels, which include normal, temporarily

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abnormal, and abnormal. Kubo et al. teach the malfunction detection operation of each one of said at least one diagnosis target is categorized into at least three levels, which include normal, temporarily abnormal, and abnormal on lines 1-31, on column 8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the three levels of Kubo et al. in the invention of Shimizu et al. because such modification would provide for indicating if the diagnosis has been completed or not as stated on lines 34-35, on column 8, of Kubo et al.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 703-308-9033. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on 703-308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

BJB  
January 26, 2004



WILLIAM A. CUCHLINSKI, JR.  
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